IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 356 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/06/2003 in WP NO : 6663 OF 2003 on the file of the High Court.)

Between:

Sri Pindiga Sridhar, S/o Late Andhru,
R/o 1-6-102, R.P. Road, Suryapet, Nalgonda District.

..... APPELLANT

AND

1 The Government of Andhra Pradesh, Social Welfare Department,
Rep. by its Secretary, Secretariat, Hyderabad.
2 The Secretary, A.P. Social Welfare Residential Educational

Institutions, Hyderabad.
3 The Commissioner and Director of Social Welfare Department, Masab

Tank, Hyderabad.
4 The District Collector (Social Welfare), Nalgonda, Nalgonda District.
5 The Deputy Director, Social Welfare Department, Nalgonda.
6 The Principal, A.P. Social Welfare, Residential School/Junior College

for Girls, Suryapet. Nalgonda District.

.....RESPONDENTS

Counsel for the Appellant:MR.K.MURALIDHAR REDDY

Counsel for the Respondent No.: GP FOR SOCIAL WELFARE

The Court made the following :

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 356 of 2005

JUDGMENT: (Per the Honourable Smt. Justice T.Meenakumari)

Aggrieved by the order of the learned single Judge dated 10.06.2003 in W.P.No.6663 of 2003 dismissing the Writ Petition, the writ petitioner therein, filed this writ appeal.

The Writ Petition was filed by the appellant herein questioning the proceedings issued by the 4th respondent herein in proceedings No. A1/736/96 dated 15.03.2002 terminating his services.

The brief facts that led to filing writ petition are that one Mr. Andhru was employed in the Social Welfare Department of the Government of Andhra Pradesh as a Hostel Warden. He died on 31.03.1996 in harness. His son, who is the appellant herein, was appointed as Junior Assistant-cum-Typist, on compassionate grounds in the A.P.Social Welfare Residential School, at Suryapet, Nalgonda District through proceedings dated 22.11.2002 by the respondents. The 4th respondent-District Collector terminated the services of the appellant, through proceedings dated 15.03.2003 on the ground that the wife of the appellant by name Sirisha was appointed as Extension Officer in the Rural Development on 03.08.1997 and later on, she was promoted as Mandal Parishad Development Officer, that the mother of the appellant P.Santhosamma was employed as Teacher in the Z.P. High School,

Suryapet and retired on 30.09.2001 and these facts were not brought to the notice of the respondents when the appellant sought employment on compassionate grounds.

The learned counsel for the writ petitioner contended before the learned single Judge that the scheme for providing appointment on compassionate grounds was introduced by the State and Central Governments as well as by public organizations and undertakings, with a view to help the families of the deceased employees to tide over the calamities resulting on account of the death of the earning member of the family, but the respondents have acted contrary to the spirit of the scheme in denying the benefits to the writ petitioner.

The Standing Counsel for the respondents, on the other hand, contended before the learned single Judge that providing employment on compassionate grounds to the dependants of the employees who die while in service is not a matter of course and according to them it is only when there does not exist any earning member in the family and that the family is exposed to poverty on account of death of the employee; that their claims can be considered. The learned counsel further contended that if there do not exist any vacancies or where the organization itself is overstaffed, the claims for appointment on compassionate grounds, cannot be considered.

The learned single Judge after considering the material on record and after hearing both sides, dismissed the writ petition filed by the writ petitioner observing that no exception can be taken to the proceedings dated 15.03.2003 terminating his services.

Aggrieved by the dismissal of the said writ petition the present writ appeal has been filed contending that the appellant was appointed after following the due procedure and he has not suppressed any facts. The learned counsel further contended that the appellant made an application for appointment on compassionate grounds on the death of his father who expired on 31.03.1996 while in service and he was appointed on compassionate grounds by the

respondent No.4 on 22.11.2002. It is further contended that the learned single Judge failed to see that the appellant's wife got a regular appointment in Government service on merit much later after he made representation for compassionate appointment and therefore it cannot be said that he has suppressed any information. It is further contended that the learned single Judge failed to see that the father of the appellant left behind him two male and one female children and none of them are employed and the appellant has to attend to their financial needs in the absence of the father and the parents of the appellant divorced long back. It is further contended that in the grounds of appeal the learned single Judge erred in dismissing the writ petition along with a batch of writ petitions, which are unconnected to each other both in terms of the facts or that of the schemes for compassionate appointment. The learned single Judge also erred in generalizing the scheme of compassionate appointment as stipulated in clauses (a) to (e) of the impugned judgment. He further contended that the learned single Judge failed to see that the impugned order is passed without any enquiry and without giving any notice.

During the course of hearing, the learned counsel for the appellant contended that the appellant has made an application on 06.05.1996 to the Deputy Director, Social Welfare Department, Nalgonda stating that his father died on 31.03.1996 and he has discontinued mechanical engineering course due to expiry of his father and as he was only the earning member in the family, he sought compassionate appointment. In pursuance of the said application of the appellant, the Deputy Director, Social Welfare Department through his memo Rc.No.A1/736/1996, dated 30.01.2002 sought necessary certificates from the appellant herein and accordingly the District Collector (Social Welfare) vide Proceedings Rc.No.A1/736/96, dated 22.11.2002 has appointed the appellant as Junior Assistant-cum-Typist on compassionate grounds and posted at A.P.S.W.R.S./Junior College for Girls, Suryapet in the existing vacancy subject to the condition that he shall pass the

typewriting examination both higher Telugu and English within two years from the date of initial appointment. In pursuance of the said orders, the appellant herein has joined duty in the said College and while he was in service, his services have been terminated by the proceedings No.A1/736/96, dated 15.03.2003 stating that the appellant has produced false documents willfully and got job by cheating the Government. It was also stated in the said proceedings that on enquiry by the Joint Director (Vigilance) of the Commissioner of Social Welfare, A.P. Hyderabad it was revealed that the wife of the appellant viz. Smt. Sirisha was appointed as Extension Officer, Rural Development on 03.08.1997 and presently working as Mandal Parishad Development Officer, Atmakur (S) in Nalgonda District. It was further observed in the said proceedings that Smt.P.Santhosamma, the mother of the appellant has worked as Teacher in Z.P.H.S. Suryapet as on 31.03.1996 and retired on 30.09.2001. With the above said observations, the services of the appellant were terminated by the 4th respondent-District Collector (Social Welfare), Nalgonda.

On the submission made by the learned counsel for the appellant and on the direction given by this Court, the learned Government Pleader for Social Welfare produced the necessary records and also the enquiry report in respect of the appellant. A perusal of the enquiry report on the allegations against Sri L.B.Chakradhar,Deputy Director (SW), Nalgonda goes to show that on the representation dated 25.09.2002 of Bharatiya Janatha Dalitha, Morcha and representation of Madiga Porata Samithi, Nalgonda one of the charges made against the said person was that the appellant herein was appointed as Junior Assistant-cum-typist on compassionate grounds irregularly and appropriate action needs to be taken against him.

The learned counsel appearing on behalf of the appellant contended that the appellant herein has been appointed by the District Collector, Nalgonda and the said L.B.Chakradhar is nothing to do with the said appointment. But, however, assuming that the appointment itself is

irregular, the enquiry conducted by the respondents behind the back of the appellant without affording any opportunity, is in violation of the principles of natural justice as he was not put on notice calling for his explanation. The material produced by the learned Government Pleader for Social Welfare goes to show that the enquiry has been conducted behind the back of the appellant herein without framing any charges and without following the procedure in accordance with law.

Under the above circumstances, we have no hesitation to quash the impugned proceedings dated 15.03.2003 and set aside the observations of the learned single Judge.

It is also to be noted that in similar circumstances, the Apex Court in ***U.P. CO-OPERATIVE FEDERATION LIMITED v. RAM SINGH YADAV AND OTHERS*** held that the termination of services without framing the charge amounts to violation of principles of natural justice and the Apex Court has directed for reinstatement of the employee. In view of the said ruling of the Apex Court, it has to be held that the action of the respondents in terminating the services of the appellant as illegal and accordingly, he is entitled for reinstatement.

Accordingly, the Writ Appeal is allowed setting aside the order, dated 10.06.2003 passed by the learned single Judge in W.P.No.6663 of 2003. The impugned proceedings No.A1/736/96, dated 15.03.2003 passed by the

4th respondent-District Collector (Social Welfare) are hereby set aside and the respondents are directed to reinstate the appellant into service with effect from 01.09.2005. It is made clear that the appellant is not entitled for pay and allowances for the period he was out of service. There shall be no order as to costs.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

Dated:23.08.2005

Ccm

Note: CC within two days.